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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2011-867

**LYNN MARIE CELVI  
a.k.a. Lynn Marie Thomas  
13210 Uvas Road, Lot 20  
Morgan Hill, CA 95037**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**Registered Nurse License No. 668561**

**RESPONDENT**

**FINDINGS OF FACT**

1. On or about April 19, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-867 against Lynn Marie Celvi (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about November 1, 2005, the Board of Registered Nursing (Board) issued Registered Nurse License No. 668561 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

3. On or about April 19, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-867, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

13210 Uvas Road, Lot 20

Morgan Hill, CA 95037.

1           4.     Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

4           5.     On or about May 2, 2011, the signed Certified Mail Receipt was returned to our  
5 office indicating a delivery date of April 27, 2011.

6           6.     Business and Professions Code section 2764 states:

7                 The lapsing or suspension of a license by operation of law or by order or decision of  
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive  
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding  
10 against such license, or to render a decision suspending or revoking such license.

11          7.     Government Code section 11506 states, in pertinent part:

12                 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's  
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16          8.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-  
18 867.

19          9.     California Government Code section 11520 states, in pertinent part:

20                 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
21 agency may take action based upon the respondent's express admissions or upon other evidence  
22 and affidavits may be used as evidence without any notice to respondent.

23          10.    Pursuant to its authority under Government Code section 11520, the Board after  
24 having reviewed the proof of service dated April 19, 2011, signed by Kami Pratab, finds  
25 Respondent is in default. The Board will take action without further hearing and, based on  
26 Accusation No. 2011-867 and the documents contained in Default Decision Investigatory  
27 Evidence Packet in this matter which includes:

28                 Exhibit 1:     Pleadings offered for jurisdictional purposes;

- 1 Exhibit 2: License History Certification for Lynn Marie Celvi, Registered Nurse  
2 License No. 668561;  
3 Exhibit 3: Affidavit of Annette Rodriguez;  
4 Exhibit 4: Certification of costs by Board for investigation and enforcement in Case  
5 No. 2011-867;  
6 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of  
7 Case No. 2011-867.

8 The Board finds that the charges and allegations in Accusation No. 2011-867 are separately and  
9 severally true and correct by clear and convincing evidence.

10 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by  
11 the Office of the Attorney General contained in the Default Decision Investigatory Evidence  
12 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that  
13 the reasonable costs for Investigation and Enforcement in connection with the Accusation are  
14 \$6,566.75 as of June 15, 2011.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent Lynn Marie Celvi has subjected  
17 her following license(s) to discipline:

18 a. Registered Nurse License No. 668561

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)  
21 based upon the following violations alleged in the Accusation, which are supported by the  
22 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

23 a. Violation of Business and Professions Code section 2761(a) - Unprofessional  
24 Conduct.

25 b. Violation of Business and Professions Code section 2762(a) - Obtaining or  
26 possessing controlled substances without a prescription.  
27  
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1 c. Violation of Business and Professions Code section 2762(b) - Use of controlled  
2 substance or alcohol to an extent or in a manner dangerous or injurious to  
3 oneself and others.

4 d. Violation of Business and Professions Code section 2762(e) - Falsify, or make  
5 grossly incorrect, grossly inconsistent, or unintelligible entries in any  
6 hospital, patient, or other record pertaining to a controlled substance.


7 **ORDER**

8 IT IS SO ORDERED that Registered Nurse License No. 668561, heretofore issued to  
9 Respondent Lynn Marie Celvi, is revoked.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
11 written motion requesting that the Decision be vacated and stating the grounds relied on within  
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
13 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

14 This Decision shall become effective on September 16, 2011

15 It is so ORDERED August 17, 2011

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18 JEANNINE K. GRAVES  
19 President  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22

23 Attachment:

24 Exhibit A: Accusation No. 2011-867  
25  
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# Exhibit A

Accusation No. 2011-867

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
JONATHAN D. COOPER  
3 Deputy Attorney General  
State Bar No. 141461  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-1404  
Facsimile: (415) 703-5480  
6 *Attorneys for Complainant*

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No.

2011-867

11 **LYNN MARIE CELVI**  
12 **aka Lynn Marie Thomas**  
13 **13210 Uvas Road, Lot 20**  
**Morgan Hill, CA 95037**

**A C C U S A T I O N**

14 **Registered Nurse License No. RN 668561**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about November 1, 2005, the Board of Registered Nursing issued Registered  
22 Nurse License Number RN 668561 to Lynn Marie Celvi, aka Lynn Marie Thomas (Respondent).  
23 The Registered Nurse License was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on October 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY AND REGULATORY PROVISIONS

6. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . . .

...

7. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1  
2 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
3 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
4 section.

5 **DANGEROUS DRUG/CONTROLLED SUBSTANCES**

6 8. Section 4021 of the Code states:

7 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section  
8 11053) of Division 10 of the Health and Safety Code.

9 9. Section 4022 of the Code states:

10 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use,  
11 except veterinary drugs that are labeled as such, and includes the following:

12 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
13 prescription," "Rx only," or words of similar import.

14 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by  
15 or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in  
16 with the designation of the practitioner licensed to use or order use of the device.

17 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
18 prescription or furnished pursuant to Section 4006."

19 10. **Darvocet**, also known as Dextropropoxyphen and Dextropropoxyphene Namsacate,  
20 is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(c)(2),  
21 and is a dangerous drug within the meaning of Code section 4022.

22 11. **Diazepam**, also known as **Valium**, is a Schedule IV controlled substance as  
23 designated by Health and Safety Code section 11057(d)(8), and is a dangerous drug within the  
24 meaning of Code section 4022.

25 12. **Fentanyl** is a Schedule II controlled substance as designated by Health and Safety  
26 Code section 11055(c)(8) and is a dangerous drug per Business and Professions Code Section  
27 4022. Fentanyl is a narcotic analgesic that is used to treat pain.

28 13. **Hydromorphone**, also known as **Dilaudid**, is a narcotic pain reliever and is a



1 Schedule II controlled substance as designated by Health and Safety Code section 11055,  
2 subdivision (b)(1)(K), and is a dangerous drug within the meaning of Code section 4022.

3 14. **Temazepam**, also known as **Restoril**, is a Schedule IV controlled substance as  
4 designated by Health and Safety Code section 11057(d)(24), and is a dangerous drug within the  
5 meaning of Code section 4022.

6 15. **Vicodin**, also known as **Norco**, is a combination of acetaminophen and  
7 **Hydrocodone**, a schedule III controlled substance as designated by Health and Safety Code  
8 section 11056(e)(4), and a dangerous drug within the meaning of Code section 4022.

### 9 **COSTS**

10 16. Section **125.3** of the Code provides, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licentiate found to have committed a violation or violations of  
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

### 14 **FACTUAL SUMMARY**

15 17. In March, 2008, Respondent worked as a registered nurse at O'Connor Hospital in  
16 San Jose, California.

17 18. On numerous occasions between March 1, 2008 and March 16, 2008, Respondent  
18 removed Vicodin from the Pyxis<sup>1</sup> but failed to adequately document administration of the  
19 medication or otherwise adequately account for the medication's disposition. Respondent  
20 subsequently admitted that she had diverted the medication for her own use. Respondent  
21 admitted that she was addicted to pain medications.

22 19. On several occasions between March 1, 2008 and March 16, 2008, Respondent  
23 removed Diazepam, Temazepam, Darvocet, Dilaudid, Morphine and Clonazepam from the Pyxis  
24 but failed to adequately document administration of the medication and/or complete nursing notes  
25 regarding administration of the medication, or otherwise failed to adequately account for the  
26 medication's disposition.

27 <sup>1</sup> The Pyxis is an automated system which tracks withdrawals of controlled substances by  
28 nursing staff.

20. On May 31, 2010, Respondent admitted that she had relapsed in her substance abuse treatment, having used painkillers including, but not limited to, Tramadol, Norco and Fentanyl during the entire previous year despite the fact that she was engaged in active treatment for substance abuse, which treatment required Respondent to abstain from the use of controlled substances.

**FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

21. Respondent is subject to disciplinary action under section 2761(a) of the Code, as set forth above in paragraphs 17-20.

## SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession and Use of Controlled Substances)

22. Respondent is subject to disciplinary action under sections 2761(a) and 2762(a) of the Code in that she obtained and possessed, in violation of law, and administered to herself, controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code and/or dangerous drugs as defined in Section 4022, as set forth above in paragraphs 17-20.

### **THIRD CAUSE FOR DISCIPLINE**

(Dangerous Use of Controlled Substances)

23. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b) in that she used controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, and/or dangerous drugs as defined in Section 4022, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public and/or to the extent that such use impaired her ability to conduct with safety to the public the practice authorized by her license, as set forth above in paragraphs 17-20.

#### **FOURTH CAUSE FOR DISCIPLINE**

(False or Grossly Inconsistent Record Entries)

24. Respondent is subject to disciplinary action under sections 2761(a) and 2762(e) in that she falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in any

1 hospital, patient, or other record pertaining to controlled substances, as set forth above in  
2 paragraphs 17-20.

3 **DISCIPLINARY CONSIDERATIONS**

4 25. To determine the degree of discipline, if any, to be imposed on Respondent,  
5 Complainant alleges the following aggravating circumstances:

6 26. On or about October 22, 2008, Respondent was referred to the Board's diversion  
7 program. Respondent subsequently entered the program after completion of a residential detox  
8 program.

9 27. On or about May 31, 2010, Respondent requested approval to withdraw from the  
10 diversion program and admitted that she had relapsed in her substance abuse treatment, having  
11 used painkillers including, but not limited to, Tramadol, Norco and Fentanyl during the entire  
12 previous year despite the fact that the diversion program required Respondent to abstain from the  
13 use of controlled substances. During that year, Respondent had submitted multiple invalid urine  
14 tests, and had on several occasions tested positive for drugs.

15 28. On or about June 2, 2010, Respondent was terminated from the program because she  
16 was deemed to be a public safety risk.

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21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Board of Registered Nursing issue a decision:

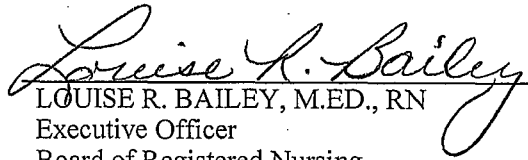
24 1. Revoking or suspending Registered Nurse License Number RN 668561, issued to  
25 Lynn Marie Celvi, aka Lynn Marie Thomas;

26 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of  
27 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
28 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/19/11

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

2011 APR 17 8:03